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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 HOWARD JOHNSON
10 INTERNATIONAL, INC.,

11 Plaintiff,

CASE NO. C04-110JLR

12 v.

13 85 FIFTH STREET ASSOCIATES LLC, et
14 al.,

ORDER

15 Defendants.

16 HOWARD JOHNSON
17 INTERNATIONAL, INC.,

CASE NO. C04-112JLR

18 Plaintiff,

19 v.

20 85 FIFTH STREET ASSOCIATES LLC, et
21 al.,

22 Defendants.

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25 The court has received the motion of Howard Johnson International, Inc. (“HJI”)
26 to voluntarily dismiss all of its remaining claims in this consolidation action (Dkt. # 33).

27 The court finds the request proper under Fed. R. Civ. P. 41(a)(2). The court notes
28 that this action is stayed as to the two individual Defendants, Lawrence Horowitz and

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1 Andre Tatibouet, because both have filed for bankruptcy protection. Nonetheless, a
2 bankruptcy stay does not prohibit the court from giving effect to a voluntary dismissal of
3 claims against a bankrupt defendant. Independent Union of Flight Attendants v. Pan Am.
4 World Airways, Inc., 966 F.2d 457, 458-59 (9th Cir. 1992) (holding that a court may
5 effect dismissal that is consistent with the aims of 11 U.S.C. § 362(a)). The court also
6 notes that the individual Defendants have no affirmative claims in this action. Only the
7 entity Defendants filed counterclaims in this action, and the court dismissed those
8 counterclaims in prior orders. See Case No. 04-112, Dkt. # 9 (counterclaim by 85 Fifth
9 Street Associates, LLC); Case No. 04-110, Dkt. # 8 (counterclaim by 85 Fifth Street
10 Associates, LLC), Dkt. # 22 (dismissing counterclaim in No. 04-110), Dkt. # 28
11 (dismissing counterclaim in No. 04-112).

13 Thus, Plaintiff's motion for voluntary dismissal leaves no claims remaining in this
14 action. The court therefore GRANTS the motion for voluntary dismissal (Dkt. # 33), and
15 directs the clerk to DISMISS this consolidated action.
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17 Dated this 9th day of January, 2006.

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James L. Robart
United States District Judge